

AGREEMENT

This Agreement is made as of the 1st day of May, 1994 by and between Philip Morris Incorporated, a Virginia corporation with executive offices located at 120 Park Avenue, New York, New York 10017 ("Philip Morris"), and Affiliated Product Promotion & Sampling Services, a division of Affiliated Models, Inc., a _____ corporation, with executive offices located in The Affiliated Building, 1680 Crooks, Troy, Michigan 48084 ("Affiliated") pursuant to which Affiliated will perform services for Philip Morris in connection with its Region 5 [Name Generation] [Intercept] Program (the "Program") under the terms and conditions stated.

1. Services

and use best efforts to sign
Affiliated will perform services, which will include on-site distribution and collection of unbranded written survey materials to purchasers of cigarettes who are 21 years of age or older ~~at~~ no less than 1000 retail stores designated or approved by Philip Morris ("Stores"). The Program will be conducted in accordance with the schedule and within the markets ("~~Markets~~") designated by Philip Morris, as described in Exhibit A. The entire Program will be completed on or before June 30, 1994.
stores *July 8, 1994*

(a) Affiliated will provide the personal services of one Regional Coordinator who will oversee all field activities.

(b) Affiliated will provide the personal services of no less than 6 Market Supervisors, each of whom will oversee the performance of services in their respective markets, with the exception of one Supervisor who will be responsible for overseeing activities in both the Portland, Oregon and the Vancouver, Washington - Salem, Oregon Markets.

(c) Affiliated will provide the personal services of no less than 7 Mystery Shoppers, each of whom will perform random visits to Stores to oversee the performance of services in their respective markets. Mystery Shoppers will work an average of a 5-day, 40 hour week and will be scheduled to render services for five of the seven days of each week and during the eight-hour period each day, requested by Philip Morris.

(d) Affiliated will recruit, retain, train, supervise and assume complete responsibility for sufficient Sales Promotion Representatives to perform merchandising, promotional and survey distribution services at each Location (the "Staff"). All Staff personnel must be 21 years of age or older and Affiliated will use its best efforts to ensure that Staff members are 25 years of age or older. ~~(The recruiting and selection process employed by Affiliated must include drug testing and a thorough review of prior driving and employment history and will be completed prior to the commencement of the Program.)~~ Philip Morris will have the right to interview the final Staff candidates selected by Affiliated and the right to reject final candidates. The Staff must include approximately 100 Sales Promotion Representatives. All Staff members will work an average of a 5-day, 40 hour week and will be scheduled to render services for five of the

seven days of each week and during the eight-hour period each day, requested by Philip Morris at each Store.

(e) Prior to the commencement of the Program, each Staff member must receive training satisfactory to Philip Morris ~~for a period of not less than~~ [five] consecutive days. Affiliated will train and instruct the Staff in accordance with the terms of the Agreement. Affiliated will locate and reserve training locations and schedule training sessions on the dates set forth in Exhibit B. Training must include instruction on compliance with the SPR Training Manual approved by Philip Morris (the "Manual"), a copy of which is attached as Exhibit C. Philip Morris may direct modifications to, and may designate third parties to attend and participate in, training sessions. Affiliated will require each Staff member to sign a statement confirming that he or she has read the Manual and agrees to comply with the provisions of the Manual, [and the Affiliated Materials Agreement], attached as Exhibit D, as a condition of employment.

(↑ what is this?)

(f) Affiliated will supervise all activities of the Staff and will take immediate and appropriate remedial action if a Staff member fails to comply with the pertinent provisions of the Agreement or Manual.

(g) Affiliated will provide the following promotion services in connection with the Program in accordance with the work schedules approved in advance by Philip Morris:

1. deliver to Stores a written letter provided by Philip Morris ^{oral} informing the Store of the Program and secure the Store's ~~written~~ consent to participate in the Program and in the promotions scheduled and conducted by Affiliated in connection with the Program during two consecutive days ("Distribution Days");
- sketch 2. deliver to Stores who agree ~~in writing~~ ^{or less} to participate in the Program, an unbranded incentive item provided by Philip Morris;
3. contact the participating Stores ^{at least} 24 to 48 hours prior to each scheduled Distribution Day;
4. during each Distribution Day, distribute survey cards to purchasers of cigarettes twenty one years of age or older at the participating Stores and distribute one unbranded lighter to each adult smoker who returns a completed survey; ^{^ + a ref - a friend survey}
5. deliver and display at participating Stores point of sale promotional materials provided by Philip Morris;
6. deliver daily written reports of surveys distributed and completed surveys returned and deliver all completed surveys to the locations designated by Philip Morris using delivery methods designated by Philip Morris; and

7. perform visual inspections within Stores and compile for each Store, a written analysis of distribution levels, competitive positions, promotions, cigarette pricing, presence of cigarette signage and other retail conditions ("Inspection Report"). Affiliated will deliver the Inspection Report for each Store to Philip Morris no later than 1 days after the last Distribution Day in the Store.

(h) All Staff members will wear clean, presentable casual business attire while performing services under the Agreement. No Staff member will wear shorts, t-shirts, bluejeans or other inappropriate attire while performing services.

(i) If at any time during the term of the Agreement, a Staff Member is contacted by a consumer, the media, a local enforcement official or any third party presenting a potential or perceived interference with the smooth operation of an activity being conducted in connection with the Program, the Staff member will immediately contact the Market Supervisor to whom the Staff member is assigned. The Market Supervisor will immediately notify Philip Morris of the potential interference, and instruct the Staff members to terminate the activity or implement a response in accordance with directions communicated by Philip Morris.

(j) Philip Morris and Affiliated acknowledge and agree that all Staff provided in support of the Program are employees of Affiliated and shall not be deemed employees or agents of Philip Morris. Philip Morris may, at its discretion, notify Affiliated of any unsatisfactory performance, attendance, conduct or personal appearance of a Staff member as observed by Philip Morris or third parties designated by Philip Morris. If and when so notified, Affiliated will investigate the matter fully, take appropriate remedial action and report the action taken to Philip Morris.

(k) Affiliated will rent local warehouses or other facilities suitable for the receipt and secure storage of the unbranded survey cards, incentives, and other Program-related equipment and materials to be provided by Philip Morris (collectively, the "Materials"). Philip Morris will use best efforts to provide Materials prior to commencement of the training sessions. Affiliated will provide Philip Morris a complete listing of all warehouse locations. At the completion of all Distribution Days, whether due to completion of the Program or termination of the Agreement, Affiliated will conduct a complete inventory of all remaining Materials and deliver a complete and detailed list of the Materials to Philip Morris. Affiliated will ship the Materials, if any, in accordance with Philip Morris' instructions, at the expense of Philip Morris. **[Philip Morris will provide Affiliated with routing instructions and select the carriers for shipment of returned Materials.] [Philip Morris will tolerate a maximum of one percent inventory shrinkage. Affiliated will monitor inventory shrinkage on a weekly basis and report to Philip Morris shrinkage in excess of one percent together with an explanation of the shrinkage.]**

(l) Affiliated will provide Philip Morris with comprehensive reports covering Affiliated's merchandising, survey distribution and promotional activities in the form attached

as Exhibit E. The reports will be produced and delivered to Philip Morris or third parties designated by Philip Morris on a weekly basis throughout the term of the Agreement.

[(m) Affiliated and Philip Morris have designated a key in-house contact within their organizations. The key contact will represent each company to the other with respect to daily issues and needs in connection with the execution of the Program and will be responsible for coordinating the issues and needs of both companies and within their own organization, assuring timely response and decision-making throughout the term of this Program. The key contact for Affiliated is Linda Hack (313-244-870), Affiliated's Regional Coordinator for the Program. The key contact for Philip Morris is Karen A. Tolchinsky, (212-878-2537).]

2. Warranties

Affiliated warrants that all services will be rendered in compliance with the Manual and applicable local, state and federal laws and regulations at all times including those relating to employment, payroll taxes, non-discrimination, OSHA, training required for the transportation and distribution of lighters and other governmental compliance. Failure to comply with those provisions of the Manual restricting the distribution of unbranded incentive items to smokers 21 years of age or older and the additional restrictions set forth in the Manual, or applicable laws and regulations, will constitute a material breach of the Agreement and grounds for immediate termination. Affiliated further warrants that it has extensive experience in the operation and administration of merchandising and promotional activities similar to the activities contemplated by the Agreement, and acknowledges that Philip Morris has relied upon this warranty as a material basis for its decision to enter into the Agreement.

3. Program Materials

Philip Morris will supply, or have the right to approve or reject in advance, all materials, including surveys, incentives, point-of-sale materials, flyers, and other promotional materials used at or in connection with the Program and the manner of their use. All materials received or stored by Affiliated are and will remain the property of Philip Morris. Affiliated acknowledges it has no right in or to the materials and agrees not to act in any manner inconsistent with or damaging to Philip Morris' ownership rights in the materials. Affiliated will not use Philip Morris' name, logo or likeness or the name, logo or likeness of any Philip Morris product in any materials it produces or distributes. No materials furnished by Philip Morris will be changed without the prior written approval of Philip Morris. Affiliated will not sell, give away or allow to be sold or given away any Philip Morris materials in connection with the Programs, other than the Materials, without the prior written approval of Philip Morris.

4. Payment

In consideration for the services rendered and expenses incurred by Affiliated, including recruiting and administration services and expenses properly attributable to the

Program, and excluding labor and operating expenses, Philip Morris will pay Affiliated a management fee of \$15,200. Philip Morris will pay Affiliated in ___ installments, the first of which will be in the amount of \$___ and will be paid upon execution of the Agreement and submission of an invoice, and the following ___, each of which will be in the amount of \$___ will be paid as follows: ___ upon submission of an invoice on the ___ day of each month beginning ___, 1994 and continuing through ___, 1994 and the final installment will be paid upon submission of an invoice on the later of ___, 1994 or complete performance of the Agreement to the reasonable satisfaction of Philip Morris.

5. Expenses

(a) Philip Morris will reimburse Affiliated ~~at cost~~ for reasonable, competitively priced labor expenses incurred by Affiliated in providing services, including participation in one week of training. The rate will not exceed [an average of] \$11.00 per hour for non-supervisory Staff. The rate will not exceed [an average of] \$12.00 per hour for Mystery Shoppers. The rate will not exceed [an average of] \$14.00 per hour for Market Supervisors. **[The rate at which Philip Morris will reimburse Affiliated will include]** employment, payroll, unemployment, social security and other taxes or charges imposed by federal, state and local law. Philip Morris will reimburse Affiliated for labor expenses incurred, within 30 ~~business~~ days of Philip Morris' receipt of an itemized invoice ~~in the form attached as Exhibit G.~~ Each invoice must be accompanied by a copy of the wage and expense summary indicating the name of the individual, Social Security number, check number, hourly rate, number of hours paid during the time period covered in the invoice and total amount paid. Affiliated will maintain in an organized fashion for review by Philip Morris, canceled checks, time sheets, Forms W-4 and I-9 and payroll personnel files. Total labor expenses including taxes, must not exceed \$206,624 throughout the term of the Agreement.

(b) Philip Morris will reimburse Affiliated at cost for reasonable, competitively priced operating expenses incurred in providing services in accordance with the Operating Budget attached as Exhibit ___. Affiliated may apply expenses incurred in one budget category to expenses allocated to another category only with the advance written approval of Philip Morris. Expenses in excess of \$20 must be submitted with original receipts. Expenses in excess of \$250 that are not included in the Operating Budget must be approved in advance, in writing, by Philip Morris. Philip Morris will reimburse Operating Expenses within 30 ~~business~~ days of Philip Morris' receipt of an itemized invoice. Total Operating Expenses will not exceed \$17,400 throughout the term of the Agreement without the advance, written approval of Philip Morris.

6. Term and Termination

The term of the Agreement commenced as of April 1, 1994 and will continue through the later of August 1, 1994 or complete performance to the reasonable satisfaction of Philip Morris. Philip Morris may terminate this Agreement, with or without cause, on thirty days advance written notice to Affiliated. If Philip Morris terminates the Agreement without cause, Philip Morris will have no liability to Affiliated after the effective

date of termination with the exception of a pro-rata portion of the management fee earned for services satisfactorily performed and documented labor and Operating Expenses properly incurred, prior to termination. Affiliated will promptly refund the unearned portion of any payment received from Philip Morris.

7. Records

(Is there a specific expense form that will be provided to Affiliated?)

(a) Affiliated, its employees and agents will maintain detailed and accurate books and records of account with respect to activities undertaken on behalf of Philip Morris. Affiliated's records will be maintained and organized in accordance with the specifications designated in writing by Philip Morris. Philip Morris, its employees and agents have the right to audit Affiliated's books and records at reasonable times during normal business hours upon reasonable, advance notice to Affiliated and at the expense of Philip Morris. As used in the Agreement, books and records include Employees Withholding Allowance Certificate (W-4), Employment Eligibility Verification Form (I-9) and supporting documents, ~~employee motor vehicle record checks, drug testing results, personnel background checks,~~ detailed original receipts supporting expense billings and time sheets supporting Staff member billings, together with payroll journals and canceled checks.

8. Confidentiality

Affiliated, its employees and agents will hold strictly confidential the existence and terms of the Agreement and all information and materials provided by Philip Morris to Affiliated or created by Affiliated in performing the Agreement, including such information as the fact that services are being performed for Philip Morris, the amount paid to Affiliated by Philip Morris, the fact that incentive items and survey cards were provided by Philip Morris or distributed at the request of Philip Morris, the volume of survey cards distributed or the magnitude of the Program. The information and materials will remain the property of Philip Morris. Affiliated will not use or disclose the terms of the Agreement or the information unless authorized to do so in writing by Philip Morris. Affiliated will ensure that no Staff member, Mystery Shopper, Market Supervisor or other agent or employee of Affiliated discloses to anyone the fact that services in connection with the program are being performed for Philip Morris. Upon termination or expiration of the Agreement, or within thirty days thereafter, Affiliated will return all confidential information and materials to Philip Morris. Affiliated's obligation to maintain the confidentiality of the terms of the Agreement and information and materials obtained from Philip Morris in connection with Affiliated's performance of the Agreement will continue beyond the termination of the Agreement.

[9. Third Party Contacts

If at any time Affiliated is contacted by a third party, including the media, concerning Affiliated's activities on behalf of Philip Morris, other than as contemplated by the terms of the Agreement, Affiliated will make no comment, immediately notify Philip

Morris of the third party contact, and refer the third party to Philip Morris, Senior Vice President, Corporate Affairs.]

10. Indemnity

Affiliated indemnifies and holds harmless Philip Morris, its affiliates and their officers, employees, directors and agents from all claims, liabilities, costs and expenses, including reasonable attorneys' fees, that arise from, or may be attributable to errors, omissions or fault of Affiliated. Affiliated's obligation to indemnify and hold harmless will survive the termination of the Agreement.

11. Insurance

Within ten days after execution of the Agreement, Affiliated will deliver to Philip Morris original certificates of insurance evidencing coverage for (1) comprehensive general liability, including contractual liability, with limits of no less than \$5,000,000 combined single limit for personal injury and property damage; (2) comprehensive automobile liability for all owned, non-owned and hired vehicles, with bodily injury limits of no less than \$5,000,000 per person, \$5,000,000 per accident, and property damage limits of no less than \$5,000,000 per accident; (3) statutory workers' compensation coverage meeting all state and local requirements; and, (4) employers' liability with limits of no less than \$500,000. Insurance certificates required by subparagraphs (1) and (2) will name Philip Morris, its affiliates, employees and assigns as additional insureds and must state that Philip Morris will be provided at least thirty days advance written notice of a cancellation or modification of the insurance. All insurance, must be primary coverage without right of contribution from any other Philip Morris insurance.

12. Independent Contractor

Affiliated is an independent contractor and the Agreement shall not be construed to create an association, partnership, joint venture, relation of principal and agent or employer and employee between Philip Morris and Affiliated or any of Affiliated's agents within the meaning of any federal, state or local law. Affiliated will not enter into any agreement, oral or written, on behalf of Philip Morris or otherwise obligate Philip Morris without Philip Morris' advance written approval.

13. Exclusivity

During the term of the Agreement, and for six months thereafter, Affiliated will not, without the prior consent of Philip Morris, engage in merchandising or similar activities for any company or entity whose business competes with any tobacco product of Philip Morris, or the interests of which are adverse to those of Philip Morris.

14. Miscellaneous

(a) The Agreement and all matters collateral hereto, shall be governed by the laws of the State of New York applicable to agreements made and to be performed entirely within the State of New York.

(b) Affiliated must comply with all applicable laws, regulations, and ordinances relating to employment, including payroll taxes and non-discrimination.

(c) This Agreement is the complete agreement between the parties and supersedes any prior oral or written agreement concerning the subject matter.

(d) If any provision of the Agreement is held invalid or unenforceable, the remaining provisions will remain in effect.

(e) The Agreement may not be amended or assigned except in a writing signed by both parties. If an assignment occurs, the assignment will not relieve the assigning party of its liabilities and obligations under the Agreement. The Agreement is binding upon successors and assignees of the parties. A waiver by either party of any of the terms and conditions of the Agreement in one or more instances will not constitute a permanent waiver of the terms and conditions.

(f) Notices provided shall be in writing and sent by certified mail, return receipt requested. Notices to Affiliated will be sent to Affiliated Product Promotion & Sampling Services, a division of Affiliated Models, Inc., The Affiliated Building, 1680 Crooks, Troy, Michigan 48084. Notices to Philip Morris will be sent to Philip Morris Incorporated, 120 Park Avenue, New York, New York 10017, Attention: Jeanne Eibon.

Signed as of the __ day of _____, 1994.

**AFFILIATED PRODUCT PROMOTION &
SAMPLING SERVICES, a division of
AFFILIATED MODELS, INC.**

PHILIP MORRIS INCORPORATED

By: _____

By: _____

Title: _____

Title: _____

Taxpayer ID No.: _____

Filing Status: _____